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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,052	07/24/2003	Scott Ragsdill	124097.00001	1450

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EXAMINER	
FREGA, JOHN M	
ART UNIT	PAPER NUMBER
3633	
MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/626,052	RAGSDILL, SCOTT	
	Examiner	Art Unit	
	JOHN M. FREGA	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2,4,5,13,16,17,21,23,31,34,35 and 42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2,4,5,13,16,17,21,23,31,34,35 and 42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a detailed action for application serial number 10/626,052 in response to amendments filed 03 October 2007. Claims 2, 4, 5, 13, 16, 17, 21, 23, 31, 34, 35, and 42 are currently pending.

Claim Objections

2. Claim 21 is objected to because of the following informalities: the references to "the members within the inner volume of the gas trap assembly" lack antecedent basis in the claim. Further line 18 of the claim should read "…that extends below the terminal end of said exit pipe." Appropriate correction is required.

3. Claim 42 is objected to for the following informalities: line 7 should read "...wall(s) forming a void therewithin;"

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim makes reference to "the lateral wall" in line 17 of the claim and it is unclear as to which wall is being referred to in the claimed limitation.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 2, 4, 13, 17, 21, 31, 35, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Huber et al. in US Patent #6,273,124. In regards to claim 2, Huber discloses a drain assembly (item 100) comprising a drainage bowl (101) an inlet to the drainage bowl (102) the drainage bowl having a bottom wall (142) and an aperture through the bottom wall thereof; an exit pipe (110) extending into the aperture on the bottom wall of the drainage bowl with a terminal end ending within the drainage bowl; a gas trap assembly (130), the gas trap assembly having a first end (located below the reference arrow at item 141) a second end (interacting with bottom wall 142) and one or a plurality of perpendicular side walls (143) so as to form a volume therein, a top wall covering the first end (as seen in figure 2), the second end being open; the gas trap assembly having members located within the first end of its inner volume, attached perpendicular to the side walls (121 and 123) and orthogonal to the top wall (see member located under reference numeral 141), the gas trap assembly further being adapted to be placed within the drainage bowl; the gas trap assembly further being adapted to be placed with the inner tops wall over the terminal end of the exit pipe; the members within the inner volume of the gas trap assembly being positioned over and contact the terminal end of the exit pipe (as can be seen in figure 2, the orthogonal member is in contact with the terminal end and the perpendicular members are positioned over the exit pipe; the relative location of the inner top wall and side walls of the gas trap assembly to the outer wall and terminal end of the exit pipe defining a passageway from the drainage bowl into the exit pipe for conveying was materials such

that when the gas trap assembly is seated over and on the exit pipe there is a length of the lateral wall of the gas trap assembly that extends below the terminal end of the exit pipe, said aqueous matter to flow along a drainage path into the exit pipe while also forming an aqueous barrier between the exit pipe and the outer environment; the passageway formed by the relative location of the inner top wall and side walls of the gas trap assembly to the outer wall and terminal end of the exit pipe operable to create the aqueous barrier when aqueous matter is sent through the passageway.

8. In regards to claim 4, Huber discloses the assembly of claim 2, further comprising a main housing defining the drainage bowl; the main housing, gas trap assembly and exit pipe being cylindrical in shape; the main housing having a diameter greater than the diameter of the gas trap assembly, and the gas trap assembly having a diameter greater than the exit pipe (see figure 2).

9. In regards to claim 13, Huber discloses the assembly of claim 4, wherein the gas trap assembly is adapted to self align on the exit pipe within the drainage bowl.

10. In regards to claim 17, Huber discloses the assembly of claim 4, wherein the gas trap assembly has a handle (141) coupled to the top of the outer wall of the top end.

11. In regards to claim 21, Huber discloses a drain assembly (item 100) comprising a drainage bowl (101) an inlet to the drainage bowl (102) the drainage bowl having a bottom wall (142) and an aperture through the bottom wall thereof; an exit pipe (110) extending into the aperture on the bottom wall of the drainage bowl with a terminal end ending within the drainage bowl; a gas trap assembly (130), the gas trap assembly having a first end (located below the reference arrow at item 141) a second end

(interacting with bottom wall 142) and one or a plurality of perpendicular side walls (143) so as to form a volume therein, a top wall covering the first end (as seen in figure 2), the second end being open; the gas trap assembly being adapted to be placed within the drainage bowl (see figure 2); the gas trap assembly having a means for being supported over the terminal end of the exit pipe (on item 142); wherein when the gas trap assembly is seated over and on the exit pipe there is a length of the lateral wall (the wall under the ring referenced at item 141) of the gas trap assembly that extends below the terminal end of exit pipe, said configuration allowing aqueous matter to flow along a drainage path into the exit pipe while also forming an aqueous barrier between the exit pipe and the outer environment; the relative location of the inner top wall and side walls of the gas trap assembly to the outer wall and terminal end of the exit pipe defining a passageway from the drainage bowl into the exit pipe for conveying was materials; and the passageway formed by the relative location of the inner top wall and side walls of the gas trap assembly to the outer wall an terminal end of the exit pipe operable to create the aqueous barrier is sent through the passageway.

12. In regards to claim 31, Huber discloses the assembly of claim 21 wherein the gas trap assembly is adapted to self align on the exit pipe within the drainage bowl.

13. In regards to claim 35, Huber discloses the drain assembly of claim 21 wherein the gas trap assembly has a handle (141) coupled to the top of the outer wall of the top end.

14. In regards to claim 42, Huber discloses (as seen in figure 2) a gas trap assembly (130) comprising; a first end; a second end; one or a plurality of side walls coupled

between the first end and second end; the first end having a top wall covering; the second end being open; the first end, second end and couple side walls forming an void therewithin; and the gas trap assembly being adapted to be positioned such that the closed end of the gas trap assembly can be positioned over the terminal end of an exit pipe so as to define a passageway for waster material and form an aqueous barrier between the exit pipe and the first end of the gas trap assembly, the gas trap assembly being seated over and on the exit pipe such that there is a length of the lateral wall of the gas trap assembly that extends below the terminal end of the exit pipe (the wall is shown below reference numeral 141), said configuration adapted to allow aqueous matter to flow along a drainage path into exit pipe while also forming the aqueous barrier between the exit pipe and the outer environment.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber as applied to claim 2 above, and further in view of Boosey in US Patent # 2,095,024 Huber discloses the assembly of claim 4 but does not specifically disclose a sediment basket adapted to be positioned on top of the gas trap assembly within the drainage bowl. Boosey discloses a floor drain assembly further comprising a sediment basket (item 10,

column 2 lines 9-15 disclose "the inside of the drain body near the top is an annular flange shaped to provide a channel as shown. The sediment intercepting basket 10 is provided with a flange 11 fitting in the channel and with a flange 12 extending flush with the upper edge of the drain body when mounted in position as shown in Fig. 1") adapted to be positioned on top of the gas trap assembly within the drainage bowl. It would be obvious to one of ordinary skill to combine the sediment basket of Boosey into the assembly of Huber as using a sediment control device is well known in the art and will further aid to prevent large particles that are present in the drainage bowl from clogging the gas trap and potentially interfering with its effectiveness.

17. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber as applied to claim 2 above, and further in view of Klinger in US Patent #2,756,078. Huber discloses the assembly of claim 4 and further discloses that the gas trap "is removable from the drain assembly by means of ring 141, or any other structure suitable for the purpose." (column 5, lines 31-33) Klinger discloses a drain with structurally similar elements that remains securely in place by means of a twist-to-lock mechanism. Klinger discloses "as soon as the locking ring 25 clears the lugs 22, the lugs will snap into position beneath the ring and thereafter the ring may be turned in a counter-clockwise direction as viewed in fig. 2, i.e. in the usual direction of turning ordinary threaded parts, and the lower inclined cam surfaces 27 of the lugs 26 will ride upwardly on the inclined cam surfaces 24 of the lugs 22 and force the tapered portion 28 of the locking ring into the annular recess behind the flexible lip 20 to further spread the latter into sealing engagement with the outlet or sump opening. It would be obvious

to one of ordinary skill in the art to combine the locking mechanism off Klinger into the gas trap of Huber as such a mechanism would provide a means to easily remove the gas trap if maintenance needs to be performed. Additionally, such a mechanism would be beneficial as it would require less skill to install the gas trap as other means (such as with an additional fastener or adhesive means).

18. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber as applied to claim 21 above, and further in view of Boosey. Huber discloses the assembly of claim 21 and shows a main housing defining the drainage bowl (as seen in figures 1 and 2), the main housing, gas trap assembly and exit pipe being cylindrical in shape; the main housing having a diameter greater than the diameter of the gas trap assembly; and the gas trap assembly having a diameter greater than the exit pipe (as seen in figure 2). Huber does not disclose a sediment basket adapted to be positioned on top of the gas trap assembly within the drainage bowl, Boosey discloses a floor drain assembly further comprising a sediment basket (item 10, column 2 lines 9-15 disclose "the inside of the drain body near the top is an annular flange shaped to provide a channel as shown. The sediment intercepting basket 10 is provided with a flange 11 fitting in the channel and with a flange 12 extending flush with the upper edge of the drain body when mounted in position as shown in Fig. 1") adapted to be positioned on top of the gas trap assembly within the drainage bowl. It would be obvious to one of ordinary skill to combine the sediment basket of Boosey into the assembly of Huber as using a sediment control device is well known in the art and will further aid to prevent

large particles that are present in the drainage bowl from clogging the gas trap and potentially interfering with its effectiveness.

19. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber as applied to claim 21 above, and further in view of Klinger.

Huber discloses the assembly of claim 21 that is secure throughout a gas push-through process and further discloses that the gas trap “is removable from the drain assembly by means of ring 141, or any other structure suitable for the purpose.” (column 5, lines 31-33) Klinger discloses a drain with structurally similar elements that remains securely in place by means of a twist-to-lock mechanism. Klinger discloses "as soon as the locking ring 25 clears the lugs 22, the lugs will snap into position beneath the ring and thereafter the ring may be turned in a counter-clockwise direction as viewed in fig. 2, i.e. in the usual direction of turning ordinary threaded parts, and the lower inclined cam surfaces 27 of the lugs 26 will ride upwardly on the inclined cam surfaces 24 of the lugs 22 and force the tapered portion 28 of the locking ring into the annular recess behind the flexible lip 20 to further spread the latter into sealing engagement with the outlet or sump opening. It would be obvious to one of ordinary skill in the art to combine the locking mechanism off Klinger into the gas trap of Huber as such a mechanism would provide a means to easily remove the gas trap if maintenance needs to be performed. Additionally, such a mechanism would be beneficial as it would require less skill to install the gas trap as other means (such as with an additional fastener or adhesive means).

Response to Arguments

20. Applicant's arguments with respect to claims 1-42 made in response to a First Action on the Merits dated 04 October 2006 have been considered but are moot in view of the new ground(s) of rejection. As new grounds of rejection have been made in this case this action is made non-final.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent #6,719,489, 6,719,004 and 6,606,753. Each refer to structurally similar floor drain apparatus.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. FREGA whose telephone number is (571)270-3662. The examiner can normally be reached on Monday through Thursday, 7:30am-5:30pm E.D.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./
Examiner, Art Unit 3633

jmf

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635